

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JEFFREY L. HEMMER,

Defendant.

4:16-CR-3107

ORDER

The defendant has filed a *pro se* motion for compassionate release ([filing 48](#)) pursuant to 18 U.S.C. § 3582(c)(1)(A), which permits a defendant (after exhausting administrative remedies) to move for reduction of a term of imprisonment based upon "extraordinary and compelling reasons." The defendant has also filed a motion for appointment of counsel. [Filing 49](#).

On its initial review of the defendant's motion, the Court finds that the defendant has at least a colorable claim under [§ 3582\(c\)\(1\)\(A\)](#),¹ and that appointment of counsel would help the Court determine whether the defendant merits relief under that section. Accordingly,

IT IS ORDERED:

1. Defendant's motion to appoint counsel ([filing 49](#)) is granted.

¹ The Court notes that despite an assertion in passing that "the warden has denied the request" for compassionate release, [filing 48 at 3](#), it remains somewhat unclear whether the defendant has exhausted his administrative remedies. The Court trusts that appointed counsel can resolve that matter and assist the defendant if further action is needed.

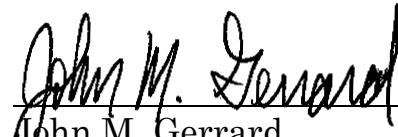
2. The Federal Public Defender for the District of Nebraska is appointed to represent the defendant for the limited purpose of determining whether there are extraordinary and compelling reasons to reduce the defendant's term of imprisonment.
3. In the event the Federal Public Defender should decline this appointment because of a conflict of interest or on the basis of the Amended Criminal Justice Act Plan, the Federal Public Defender shall provide the Court with a draft appointment order (CJA Form 20) bearing the name and other identifying information of the CJA Panel attorney identified in accordance with the Amended Criminal Justice Act Plan for this district.
4. If upon his review the Federal Public Defender should conclude that the defendant's motion is frivolous, the Federal Public Defender may move to withdraw as counsel.
5. The government shall respond to the defendant's motion on or before September 8, 2020. The Federal Public Defender shall promptly file any supplementary briefing or evidence necessary to the Court's disposition of the motion. Absent an extension, the defendant's motion shall be deemed submitted as of September 9, 2020.
6. The Office of U.S. Probation and Pretrial Services is authorized to disclose Presentence Investigation Reports

and materials obtained from the Bureau of Prisons, including medical records, to the Federal Public Defender and the United States Attorney for the purpose of evaluating the defendant's motion. The Federal Public Defender shall provide the Presentence Investigation Report to any subsequently appointed or retained counsel. In accordance with the policy of the Federal Bureau of Prisons, no Presentence Investigation Report shall be provided to inmates.

7. The Office of U.S. Probation and Pretrial Services shall promptly conduct a compassionate release investigation, prioritizing the collection of medical records relevant to the defendant's claim.
8. The Clerk of the Court shall provide a copy of this order to Supervising U.S. Probation Officer Aaron Kurtenbach.

Dated this 1st day of September, 2020.

BY THE COURT:



John M. Gerrard
Chief United States District Judge